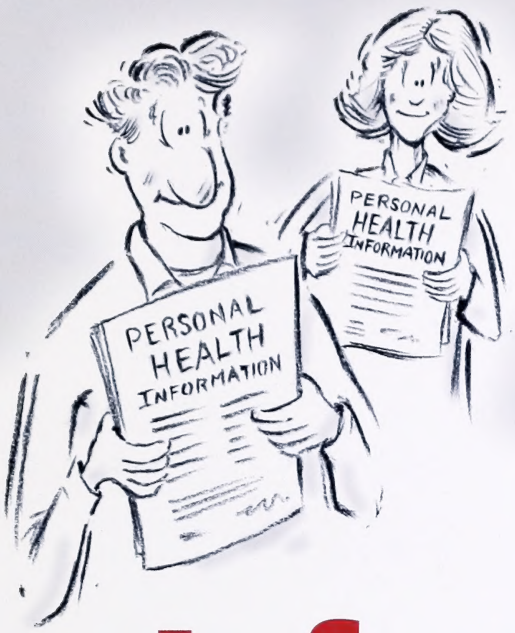

Health Information A Personal Matter

A Practical Guide To The Health Information Act

Office of the Information and Privacy Commissioner

This practical guide is based on the Health Information Act and regulations. It refers to or paraphrases provisions from these enactments. Do not rely on the paraphrases in this guide. It is strongly recommended that this guide be used in conjunction with the Health Information Act. Always refer to the specific legislation for the text of the provisions.

This publication is provided as information only. All examples used are provided as illustrations. This publication is not to be used as a substitute for legal advice. This guide is not an official interpretation of the law and is not binding on the Office of the Information and Privacy Commissioner.

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Health Information - A Personal Matter

A Practical Guide To The Health Information Act

Office of the Information
and Privacy Commissioner

A

Introduction

The Health Information Act sets out rules governing the collection, use and disclosure of health information. These rules will apply to all health care providers operating in the public health system. The details concerning a person's health status have long been considered the most sensitive type of information. Concerns about the privacy and confidentiality of health information are common to us all. At the same time, there is a strong view that health care information can be used to provide caregivers better information about people who need care, survey the health of Canadians, define the determinants of our health and better manage our health care system. While the Health Information Act provides for these uses of health information, it also affirms prevailing professional ethical obligations respecting confidentiality and security of health information. Significantly, the Act also provides a right of access by individuals to their personal health information.

This guide has been designed for busy health care professionals. The user will find a comprehensive Table of Contents and a Quick Reference Guide that offers examples of how the Act might apply in some common scenarios. The guide will not provide answers to every situation. We hope that it will give the user enough of a sense of how the Act operates to know when to proceed as usual and when practices may have to be modified. Albertans have always trusted the judgement of their health care professionals. The continued exercise of this good judgement and an understanding of the Act will provide the necessary skills and knowledge for dealing with health information.

I wish to acknowledge the many individuals who were involved in the production of this guide. Craig Jordheim, B.A., LL.B undertook the writing of the guide with editing provided by staff member, Roseanne Gallant, Health Information Compliance Officer. Other staff members contributed helpful comments, including: Brenda Chomey, Health Portfolio Officer, Noela Inions, Legal Counsel, Tim Chander, Communications Officer, Marylin Mun, Team Leader - FOIP and Elizabeth Denham, Consultant. Pam MacKechnie was our very capable proofreader.

A number of stakeholders were involved in the creation of this publication and a special thank you is extended to the following: Mr. Victor Taylor, Alberta Medical Association, Mr. Greg Eberhart, Alberta College of Pharmacists, Dr. Renae Rogers, College of Chiropractors of Alberta, Mr. J. Swinarski and Ms. Lori Webb, College of Physicians and Surgeons, Dr. Hugh Campbell, Alberta Dental Association, Ms. Cindy Nikiforuk, Alberta Health Record Association and Mr. Barry Cavanaugh, Pharmacy Association of Alberta. Involvement in the development of this document can not be construed as an endorsement by the aforementioned stakeholders.

I also wish to acknowledge the "On the Record" a similar guide prepared by the Information and Privacy Commissioner of New Zealand as our inspiration for this publication.

The graphic design was supplied by Artsmith Communications.

I believe this guide provides a clear understanding and direction of how the Health Information Act applies to a person's health records. This Act is so important for the continued confidence of patients as well as the professionals who serve them.

Frank Work, Q.C.
Assistant Commissioner, Health Information

Quick Reference Guide

B

Some examples of questions that this guide is intended to answer.

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D

The purpose of this guide

This guide is intended to give health service providers a basic understanding of the Health Information Act (HIA) and the areas they are most likely to encounter in the course of their practice or employment.

This guide is not intended to be an exhaustive study of the Act and will not provide answers to every question that might arise in practice. It points out the major duties and powers created by the Act and the rules governing how those duties are to be fulfilled and how those powers are to be exercised.

Examples are given of situations that might arise in practice and suggestions are made about how the Act might apply. This guide is not a substitute for legal advice. If you are unsure about whether or how the Act applies, you should contact your HIA co-ordinator, Alberta Health and Wellness, the Office of the Information and Privacy Commissioner, or a lawyer.

Important points made in this guide are printed in boldface type. Some words or phrases are printed in italics. Italicized words or phrases have a specific meaning in the Act. The glossary at the end of the guide will provide those definitions. When you are trying to decide if or how the Act applies, it is extremely important to **pay attention to the definitions in the Act.** The definitions are crucial for determining even basic issues such as whether you are subject to the Act or not.

An overview

1

The Health Information Act is a detailed piece of legislation for a very simple reason. It deals with complex issues concerning the collection, use, disclosure and protection of personal health information used in the health care system.

Patients are very concerned about what is done with their personal medical information. They want their information closely guarded so that it is not accessed or disclosed against their wishes – either on purpose or inadvertently. No one wants to seek treatment for a sensitive medical problem only to receive a surprise call from someone marketing a product for the treatment of that condition. Similarly, no one wants their neighbour to accidentally discover what medications they are taking or the medical conditions they are being treated for.

Similar concerns apply to information about people who provide health services. Providers do not want information disclosed which concerns their education, employment status, or job classification.

At the same time, it's understood that people and organizations providing health services need to have access to information to treat people, conduct research and manage the health care system. Other people, such as a patient's family, may have a legitimate reason to be told about the patient's medical condition. The authorities may need to be warned about people whose medical condition makes them a danger to themselves or others. In such cases, a person's right to or desire for privacy may conflict with the rights or desires of others.

The needs and rights of many people and groups must be balanced against each other. The Health Information Act, and the regulations made under it, set out the rules that accomplish this balance. Because there are so many ways in which these needs and desires can interact, the Act is detailed.

The Act attempts to balance the need for privacy and confidentiality against the need for the collection, use and disclosure of information. The Act contains separate parts dealing with each issue. The introductory section of the Act sets out the purposes of the legislation. The remainder of the Act is divided into parts dealing with:

- a person's right to access, correct or amend their own information;
- creating offences and imposing penalties to deter people from breaching its provisions; and
- methods for reviewing decisions made by custodians and resolving complaints.

It is important to note that this Act does not require health service providers to abandon everything they have done in practice up to now and start over. While the Act must be followed, professional codes of ethics continue to apply as long as they are not in conflict with the Act. However, if the Act prohibits something, you may not do it, even if your code of ethics would allow it. If the Act is silent on an issue, and your code of ethics either allows or prohibits you from doing a certain thing, you should follow the code of ethics.

2

Does HIA apply to you?

General

In one sense the Act applies to everyone, because it gives people a right of access (subject to certain exceptions) to their own health information and prevents others from having access to or obtaining disclosure of that information.

This Act is primarily concerned with information that is collected and used by people and organizations in Alberta's publicly funded health system. It does not apply to **all** health information about an individual.

Certain organizations, such as insurance companies and employers, may hold health information in their files, however they are not custodians or affiliates as those terms are defined in the Act, nor does the Act govern the use of health information by them. Nevertheless, these entities are bound by the Act when they obtain access or seek disclosure of information to them.

It may be helpful to think of the public health system as a **controlled arena.** Most patients understand that health care is complex and that many people in the health care system need access to their health information to provide care and treatment. People usually do not object to information being shared with their nurse or specialist or someone who is providing them with homecare, so long as the sharing of that information is necessary for their treatment. Health care providers understand that information about them will be collected and shared for the purpose of managing the health care system. The vast majority of health information is collected and used by people and organizations operating in Alberta's publicly funded health system. The Act defines most of these people and organizations as either ***custodians*** or ***affiliates.***

2

Are You a Custodian?

Custodians and *affiliates* in the **controlled arena** are subject to specific rules dealing with health information. Custodians are, in effect, **gatekeepers** who must be vigilant in determining what information they will collect and share, and with whom they will share. It is possible for information to leave this controlled arena. For example, information may be disclosed to a family member, but this is only possible if the rules governing the controlled arena allow such disclosure.

Custodians and affiliates protect health information

The Act and accompanying regulations define over twenty types of *custodians*. The list includes provincial health boards, regional health authorities, nursing home operators, licensed pharmacies, and the Ministry of Health. These custodians are easily identified.

Individuals defined in the Act as ***health services provider(s)*** are also custodians, but less easily identified. These individuals are paid under the Alberta Health Care Insurance Plan (AHCIP) to provide health services. Health service providers include physicians, dental surgeons, dental mechanics, optometrists, opticians, chiropractors, podiatrists and osteopaths. Pharmacists are also included, regardless of how they are paid. A ***health service*** is a service that is directly or indirectly and partly or fully funded by the Alberta Department of Health and Wellness and provided to an individual for the purpose of:

- protecting, promoting or maintaining physical and mental health;
- preventing illness;
- diagnosing and treating illness;
- rehabilitation;
- caring for the health needs of the ill, disabled, injured or dying; or
- provided to an individual by a pharmacist engaged in the practice of pharmacy no matter how the service is paid for.

Determining whether you are a custodian under this provision requires careful consideration. Note that **you must consider not only what services you provide, but how you are paid for them.** It is entirely possible for an individual to provide the same health care service to two different people and only be a custodian with respect to one service. In some cases visits to a chiropractor are paid for by the AHCIP. In such cases the chiropractor is a custodian. If the same visit is paid for privately, the chiropractor is not a custodian.

2

Are You an Affiliate?

Under the Act you are an *affiliate* if you are:

- an individual employed by a custodian, e.g. a receptionist in a physician's office or a physician with admitting privileges to a hospital;
- a person who performs a service for a custodian as an appointee, volunteer or student;
- a person who performs a service for a custodian under a contract or agency relationship with the custodian; or
- a health services provider who has the right to admit and treat patients at a hospital as defined in the Hospitals Act.

Custodians are responsible for their affiliates

Most custodians employ a few people and some employ thousands of people. Other custodians have contracts with individuals or companies. Some custodians, such as hospitals, grant privileges to doctors to admit and treat patients in their facilities. Contracted individuals and companies could gain access to information held by the custodian and in some cases that may be the whole purpose of their employment or contract.

If these people or companies were not subject to the Act, they would not be subject to the same health information rules of disclosure. Consequently, the Act defines them as *affiliates* and brings them into the **controlled arena.** It is important for people to determine whether they are affiliates so they know whether they are bound by the Act. **It is just as important for custodians to identify their affiliates because they are responsible for them.**

Ambulance attendants and insurance agents, as defined in the Health Insurance Premiums Act, are specifically excluded from the definition of *affiliate* and are not subject to the Act.

EXAMPLE 1 **Does the Act Apply?**

Sue is a nurse employed at a private school. A student tells Sue that he is very depressed and is considering suicide. Sue notes the incident in her files and counsels the student. Sue wants to phone the student's parents. Does the Act apply to Sue?

Is the school a *custodian* and if so, is Sue an *affiliate* of the school?

- The school is not a *custodian* under the definition in the Act, so the school is not subject to the Act. Because the school is not a *custodian,* Sue could not be an *affiliate* under the Act despite being employed by the school.

Is Sue a *custodian*?

- As Sue is engaged in promoting or protecting the student's mental health and diagnosing or treating his illness, she could be a *health services provider* under the Act. Whether she is a custodian would be determined by whether her services were directly or indirectly and partly or fully funded by the AHCIP.
- As a salaried employee of the school with no billings made through the public health system, she would not be a *custodian* and the Act would not apply.

What information does the Act protect?

3

General

It is important to remember that health care professionals and organizations have always acted as **gatekeepers** of personal health information. They have always gathered information from patients and health care providers and used it to provide care and manage the public health care system. They have also protected that information, preventing unauthorized persons from obtaining it. The Act sets out specific rules about how health information must now be dealt with, but those rules do not radically change what health care professionals have been doing for a long time.

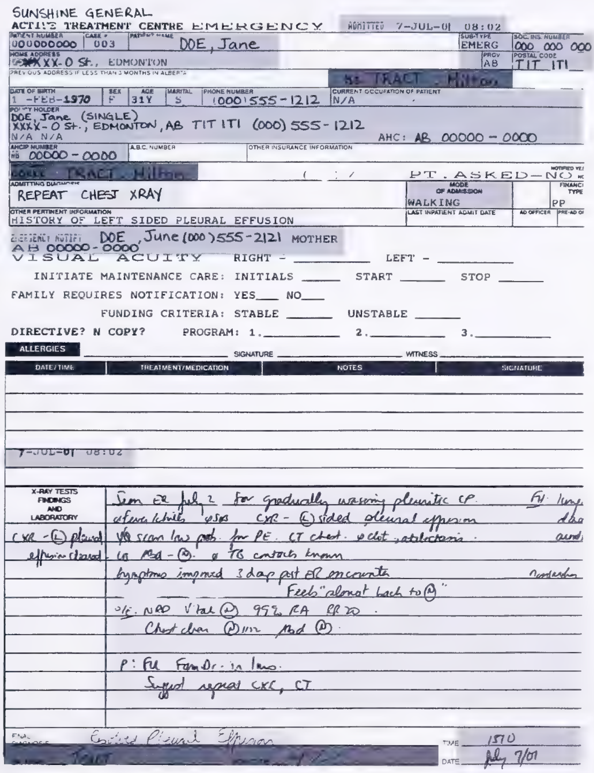
Health Information

The Act protects ***health information.*** While this term appears to be a simple one, this Act defines three types of health information:

The Act protects three types of health information

1) *diagnostic, treatment and care information*
2) *health services provider information*
3) *registration information*

When faced with a *health information* issue you must determine what type of *health information* you are dealing with, as some of the rules in the Act do not apply to all three types of *health information.*


SUNSHINE GENERAL
ACTIVE TREATMENT CENTRE EMERGENCY ADMITTED 7-JUL-01 08:02
PATIENT NUMBER 000000000 CASE # 003 PATIENT NAME DOE, Jane SUB-TYPE EMERG SOC. INS. NUMBER 000 000 000
HOME ADDRESS XXXX-0 St., EDMONTON PROV AB POSTAL CODE TIT ITI
PREVIOUS ADDRESS IF LESS THAN 3 MONTHS IN ALBERTA TRACT
DATE OF BIRTH 1-FEB-1970 SEX F AGE 31Y MARITAL S PHONE NUMBER (000) 555-1212 CURRENT OCCUPATION OF PATIENT N/A
POLICY HOLDER DOE, Jane (SINGLE)
XXXX-0 St., EDMONTON, AB TIT ITI (000) 555-1212
N/A N/A AHC: AB 00000-0000
AHCIP NUMBER AB 00000-0000 A.B.C. NUMBER OTHER INSURANCE INFORMATION
TRACT PT. ASKED-NO
ADMITTING DIAGNOSIS REPEAT CHEST XRAY MODE OF ADMISSION WALKING FINANCIAL TYPE PP
OTHER PERTINENT INFORMATION HISTORY OF LEFT SIDED PLEURAL EFFUSION LAST INPATIENT ADMIT DATE AD OFFICER PRE-AD OF
EMERGENCY NOTIFY DOE, June (000) 555-2121 MOTHER
AB 00000-0000
VISUAL ACUITY RIGHT - ______ LEFT - ______
INITIATE MAINTENANCE CARE: INITIALS ____ START ____ STOP ____
FAMILY REQUIRES NOTIFICATION: YES___ NO___
FUNDING CRITERIA: STABLE ____ UNSTABLE ____
DIRECTIVE? N COPY? PROGRAM: 1.______ 2.______ 3.______
ALLERGIES ______ SIGNATURE ______ WITNESS ______

DATE/TIME	TREATMENT/MEDICATION	NOTES	SIGNATURE
7-JUL-01 08:02			

X-RAY TESTS FINDINGS AND LABORATORY
CXR - (L) pleural effusion cleared
Seen ER July 2 for gradually worsening pleuritic CP.
CXR - (L) sided pleural effusion
CT chest
symptoms improved 3 days post ER encounter
Feels "almost back to (N)"
99% RA RR 20.
Chest clear
P: F/U Fam Dr. in 1wk.
Suggest repeat CXR, CT
TIME 1510
DATE July 7/01

Registration Info.
Health Services Provider Info.
Diagnostic, Treatment Info.

3

It is not uncommon to find all three types of information in the same record, so you must be careful not to inadvertently disclose information you do not wish to disclose. It is also important to note that the Act deals with individually identifying versus non-identifying and recorded versus non-recorded information.

Health information is collected, used, protected and disclosed. The provisions in the Act about protection, use and disclosure apply to all health information regardless of when the custodian acquired it. However, the provisions in the Act regarding the collection of information only apply to information collected after the Act came into force.

This guide focuses largely on *diagnostic, treatment and care information,* as it is that type of information that will be involved in most cases when issues arise about collection, use and disclosure.

Diagnostic, Treatment and Care Information

This type of information is what health care professionals deal with on a routine basis. It includes information about:

- a person's physical or mental health;
- the treatment they are receiving or have received;
- drugs they have been provided with;
- health care aids or products they have received; and
- the amount of health care benefits paid or payable for services provided to them.

Registration Information

This type of information includes:

- demographic information (name, signature, gender, photograph, personal health care number, etc.);
- location, residency and telecommunications information (mailing and electronic addresses, past residences, citizenship/immigration status);
- health service eligibility information;
- billing information.

Personal health numbers receive particular attention. Only custodians and persons designated under the regulations may require a person to provide their personal health number. The list of persons designated in the regulations include:

- ambulance attendants and operators;
- the Workers' Compensation Board; and
- persons other than custodians who provide health services and need the number to seek reimbursement from the Alberta Health Care Insurance Plan, for example, massage therapists.

When asking for a personal health number, they must advise the person of their authority to ask for the number. If someone without authority requests a personal health number, a person can refuse to provide the number.

3

Health Services Provider Information

Information is often collected about providers of health services. Certain custodians, such as regional health authorities or the Department of Health and Wellness, use this information for workforce planning or determining whether a health care provider's right to practice has been cancelled or suspended. This type of information includes such things as the provider's name, address, gender, education, competencies, job classification and employment status.

Recorded vs. Unrecorded Information

Information is not *health information* unless it is contained in a record. The Act contains a broad definition of what constitutes a ***record.*** A record includes such things as x-rays, notes, letters, audio-visual recordings and lab reports. A record also includes any other information recorded or stored in any manner.

Unrecorded information is protected by the Act

Custodians are often told things that may not get written down in a *record.* Technically, **unrecorded** information is not *health information.* Nevertheless, it is protected by the Act and may only be used or disclosed for the purpose for which it was provided.

EXAMPLE 2 — Confidentiality of Unrecorded Information

Bill sees his physiotherapist four times a week, usually early in the day. The physiotherapist is a custodian under the Act as she is a health services provider and the visits are paid for by the AHCIP. Bill often looks a little worse for wear and comments that he has been doing a lot of partying lately. His physiotherapist makes no note of it in Bill's chart, as it has no bearing on Bill's treatment. The physiotherapist also treats Bill's brother who comments that he is worried about Bill's drinking. Can the physiotherapist discuss Bill's disclosure with his brother?

Is what Bill said health information?

- As the information was not put into a record, it is not health information.
- Nevertheless, the Act provides that such unrecorded information can only be used for the reason it was provided.
- It is difficult to pinpoint exactly why Bill disclosed the fact he had been doing a lot of partying. However, we can be fairly certain he did not disclose it for the purpose of having it discussed with others. Consequently, the information cannot be disclosed even though no record was made of it.

3

Individually Identifying vs. Non-Identifying Information

The Act is primarily concerned with the protection of ***individually identifying health information***. Not all of the information used in the health care system needs to be attached to the name of a specific patient or to a patient's personal health care number. It may suffice, particularly in the area of research, to disclose *health information* without identifying the persons from whom it came. If a person cannot be identified by the information disclosed, their privacy cannot be infringed.

Because of this, the Act allows *non-identifying information* to be collected and used for any purpose. It may also be disclosed for any purpose, other than specific restrictions for use in data matching.

EXAMPLE 3

Identifying vs. Non-Identifying Health Information

Residents of a small town developed concerns about the safety of their water supply. A newspaper reporter contacted the town doctor, who was treating the reporter's neighbour, and asked if his neighbour was being treated for E-coli infection. The doctor responded that he could not disclose that information. However, he told the reporter that all patients seen that day showed signs of E-coli infection and that he was waiting for test results to confirm his diagnosis. Was this a disclosure of individually identifying information?

- It is possible that this seemingly anonymous revelation could identify individual patients. As the reporter knew his neighbour had seen the doctor that day, he would know the doctor suspected an E-coli infection. In a large city, such a disclosure might not identify individual patients.
- It is therefore important to assess the context of the disclosure to ensure the information does not identify an individual.

Duties and powers of custodians and affiliates

4

Relationship Between Custodians and Affiliates

Much of the time *custodians* are assisted by their *affiliates*. When you need to see a doctor you first make an appointment with a receptionist. When you arrive for your appointment the receptionist will collect information from you. The next person to see you will probably be a nurse. The nurse and the receptionist are *affiliates* who are employed by the doctor/*custodian*.

Custodians are responsible for their affiliates. When affiliates collect, use or disclose information, they do so on behalf of custodians. When patients provide information to affiliates, it is as if they had given the information directly to the custodian. If an affiliate does something the Act forbids them to do, it is as if the custodian performed the act.

Affiliates must comply with the Act and regulations as well as with the policies and procedures adopted by their custodians.

Specific duties and powers regarding collecting, using, protecting and disclosing information, as well as assisting people in obtaining access to their health information are discussed later in this guide.

Establishing Policies and Procedures

Custodians must establish policies and procedures that they will use in implementing the Act and regulations. A copy of these policies must be given to the Minister of Alberta Health and Wellness if requested. An example of this would be a policy that forbids employees *(affiliates)* from accessing patient charts unless they are directly involved with the patient's care.

The Prime Directive

It's important to understand that custodians can only collect, use or disclose the amount of health information **essential** to carrying out the purpose for which the information was provided in the first place. In other words, **custodians must collect, use and disclose the least amount of information necessary and preserve the highest degree of patient anonymity possible to carry out the intended purpose.**

Individuals can also expressly ask a custodian not to release certain aspects of their health information and these wishes must be considered when disclosure is contemplated.

If *health information* is collected, used or disclosed for a purpose other than providing a *health service* or determining eligibility to receive a health service, custodians must not only comply with the **prime directive,** they must first consider whether aggregate health information is adequate for the intended purpose. The Act requires custodians to collect, use or disclose aggregate health information unless that level is insufficient for their purpose.

Ensuring the Accuracy of Information

Custodians must make a **reasonable** effort to ensure that health information in their **custody or control is accurate and complete** before using or disclosing that information. What is reasonable, simply requires the exercise of good judgement. You are not expected to be perfect, but you must take steps that a reasonably average, capable custodian would take. If a diagnosis has changed, some note about that on earlier records may avoid having another provider act on an inaccurate diagnosis in the future.

Privacy Impact Statements

If a custodian wants to change its practices or information systems concerning health information, or implement new ones, it must prepare a privacy impact statement (PIA). The statement must describe how those changes or new initiatives will affect privacy and it must be reviewed and commented on by the *Commissioner* before the changes or new initiatives are implemented. For example, a plan to increase collection of patient information or moving from paper to electronic patient files would both be reason enough to perform a PIA.

Privacy Impact statements demonstrate that the custodian has considered the privacy rules in HIA and has weighed the impact on individual privacy against the benefits of the new system or practice.

5

Collecting health information

General

The rules in the Act about collecting *health information* only apply to information collected **after** the Act came into force.

Custodians must only collect *health information* in accordance with the Act. Even if another Act authorizes them to collect health information, this Act still governs how they collect it and from whom they collect it. *Affiliates* must only collect *health information* in accordance with their duties to the *custodian* as the information they collect is collected on behalf of the custodian.

Remember the prime directive

The Act authorizes custodians to collect information for certain purposes only. There are five limits to collection:

- Collect only essential information
- Collect with highest degree of anonymity
- Collect in a limited manner
- Identify authority to collect individually identifying information
- Collect directly from the individual unless indirect collection is authorized

Remember the prime directive. You must only collect as much health information as is essential to carry out the purpose for which the information is being collected. In addition, the information collected must relate directly to the purpose of collection. *Custodians* should have a policy about what *health information* they routinely collect and who is allowed to collect it to ensure they are not breaching these rules. For example, *affiliates* whose job it is to clean patient rooms should not be collecting *health information.*

5

Remember that *health information* can be *individually identifying* or *non-identifying.* Custodians may collect non-identifying health information for any purpose.

Example 4 **Necessity and Purpose in Collection**

Doctor Ferguson has developed a theory about the connection between blood type and a certain ailment. He plans to do research in this area and is in the process of preparing a research proposal. In anticipation of this, he routinely asks new patients for their blood type when they first come to see him. Is this a proper collection of information?

- **The prime directive requires that custodians collect only the amount of information essential to allow them to carry out the purpose for which the information is provided.**
- **The Act also only authorizes collection of information that is directly related to that purpose, so for patients coming to Dr. Ferguson with a sore throat, blood type is likely irrelevant.**
- **It is improper to routinely collect such information when it is not needed or directly related to providing the health service the patient was seeking.**

Collection of Individually Identifying Health Information

Personal health information that is *individually identifying* is simply information that will identify the person whom the information is about. The Act allows *custodians* to collect such information for a number of purposes. The two most common reasons are:

1) for the purpose of providing a *health service,* or
2) determining or verifying eligibility to receive a *health service.*

Other authorized purposes for collection of *individually identifying health information* include:

- conducting investigations;
- holding discipline proceedings;
- educating health service providers; and
- conducting research.

Custodians may also collect *individually identifying health information* if the collection is authorized by an enactment of Alberta or Canada. For example, the reporting of a communicable disease under the Public Health Act.

Collection of Personal Health Numbers

Only *custodians* or persons designated by the regulations can ask for someone's personal health number. Persons designated by the regulations include insurers (for the purpose of handling claims), the Workers' Compensation Board, ambulance attendants and operators.

Collecting Directly from the Individual Concerned

Openness avoids misunderstandings

A *custodian* **must** *collect individually identifying health information* directly from the person it concerns unless the Act authorizes collection from a third party.

If you collect information directly from the person it concerns you must take **reasonable steps** to inform the person of:

- the purpose for which the information is collected;
- the custodian's specific legal authority for collecting the information;
- the title and business address and phone number of an affiliate who can answer questions about the collection.

The Act says this information should be given **when** collection takes place. Ideally, it should take place before questions are asked or forms filled in so that the patient has time to think about what is being asked for. If a patient wants to authorize a *custodian* to *collect* information from someone else, or to express their wishes about whom disclosures may be made to, such matters can be dealt with at the same time.

Custodians should be very clear about their reasons for collecting information. If people are told why certain information is required, what it will be used for and who will have access to it, they will not be surprised or annoyed by subsequent uses or disclosures for those purposes. This is particularly true as the Act allows *custodians* to share information for the purpose of providing *health services* **without the individual's consent.**

Health service is a broadly defined term. All the people who might provide health services may not be readily apparent to a patient. It is unnecessary to provide an exhaustive list, but informing patients what types of people are likely to see their information may avert problems at a later time. For example, physicians and nurses are obvious recipients, whereas students, researchers or peer reviewers are not as obvious.

The Act does not specify how this notice of collection is to be given to the patient. *Custodians* must take **reasonable steps.** Again, what is reasonable requires the exercise of good judgement and common sense. The use of brochures, notices, signs and oral explanations are some suggested methods. *Custodians* should be sure that signs and notices are obvious and drawn to their patients' attention. Fine print at the bottom of a lengthy form is not acceptable.

5

Collecting from a Third Party

In certain circumstances the Act allows *custodians* to collect *individually identifying health information* from someone other than the person seeking health services. Allowable circumstances are:

Information does not have to be collected directly from patients

- Where the individual **authorizes** collection from someone else;

  When a patient authorizes collection from someone else, the patient should still be informed what information is to be collected, from whom, and the purposes for which it will be used. While strictly speaking the Act does not require this, it would avoid arguments later on about exactly what the patient authorized the custodian to do. It may be advisable to obtain a written authorization.

- Where the individual is **unable** to provide the information and the *custodian* collects it from an authorized representative such as a parent or guardian of a person under the age of 18; or an agent under a personal directive.

  Collecting from children raises difficult issues. Persons under the age of 18 that are capable of making their own medical choices must be allowed to do so. Custodians cannot use this provision to consult the parents of a 16-year-old if the young adult is perfectly capable of providing the needed information. However, other provisions in the Act might allow a custodian to consult a third party such as a parent.

- Where the *custodian* believes, on **reasonable grounds,** that direct collection would **prejudice:**
  - the interests of the individual;
  - the purpose of the collection;
  - the safety of another individual; or would result in
  - the collection of **inaccurate information.**

  In certain situations it is better for information to be gathered from someone other than the patient. Certain questions may create unwarranted stress for the patient.

  - A drug addict may give false information in an effort to obtain drugs and confronting such an individual may provoke a violent response.
  - People may not want to disclose that they have a medical condition such as AIDS.
  - A person with mental health problems may not be able to give accurate information.

  This rule allows custodians to go to other sources to ensure that accurate information is obtained and dangerous situations are avoided.

Safety, accuracy and practicality are important considerations in collection

- Where direct collection **is not reasonably practicable;**
  - An unconscious or confused patient may not be able to give information.
  - In an emergency there may not be time to question the patient.
  - A patient may not know the answer to a question but a third party, such as a parent, might.
- Where the information is available to the public;
- Where the information is collected to assemble a family/genetic history necessary for the provision of health services, determine/verify eligibility, or inform a Public Trustee or Public Guardian.
- Where the information is collected, from a third party, in a situation where the Act would allow disclosure of that information to the third party. For example, the Act allows a specialist to collect information from a patient's family practitioner without consent.

EXAMPLE 5 **Collecting Information From a Patient's Family**

Mary is a senior citizen who is an insulin dependant diabetic. Mary lives on her own and suffers from short term memory loss as a result of a recent stroke. Mary has been receiving routine care from her family physician, Dr. Brown. The doctor has noted that Mary's blood sugars are not controlled and her foot care regime has diminished since the stroke. Dr. Brown suspects that Mary is forgetting to take her insulin and perform her routine blood sugar testing. Can Dr. Brown contact Mary's family about his suspicions?

- Mary could be asked to authorize collection of her health information from someone else.
- Dr. Brown could collect information from someone else on the basis that it was not practicable to obtain the information from Mary, as she believes that she has been diligently following her routine care schedule.
- Mary may be forgetting to check her blood sugars and adjusting her insulin injections accordingly. Dr. Brown could collect information from someone else on the basis that collecting from Mary may result in the collection of inaccurate information.

Information collected from a third party may not be as accurate or reliable as that collected directly from the individual it concerns. Remember that you have a duty to take reasonable steps to ensure the information is accurate and complete. It may be appropriate to verify such information with the patient at a later time if that is possible and justifiable.

Confidentiality of information collected from a third party cannot necessarily be guaranteed. However, custodians have the authority to maintain the confidentiality of third party information that was supplied in confidence. For example, a custodian may refuse to release information that would lead to the identification of the third party where the information was supplied in confidence.

5

Unsolicited Information as Collection

Collect also means to **receive** *health information. Health information* volunteered by someone such as a family member or friend is information collected by the custodian, even though the custodian did not actively solicit it. The Act does not regulate the receipt of unsolicited information but it does address the confidentiality of non-recorded information.

Collecting also means receiving

It would be good practice to note the source of such information when it is received, particularly if it will be used as a basis for treatment. Remember that custodians must make a reasonable effort to ensure that information is accurate and complete before they use or disclose it.

EXAMPLE 6 **Receiving Unsolicited Information**

During a consultation, Dr. Jones' patient, John, tells her that he believes his neighbour, Sue, beats her children. John says he regularly sees the children with extensive bruising to their faces. Sue and her children are also patients of Dr. Jones.

Is this unsolicited information a collection under the Health Information Act?

▲ **Yes, if the information is recorded. Although the information was volunteered and not requested by Dr. Jones, it still qualifies as a collection as defined by the Act.**

Collection using a Recording Device or Camera

If you collect *health information* from an individual by using a recording device, camera or any other device **that may not be obvious to the individual,** you must obtain the individual's **written consent** before collecting the information. For instance, if a video or audio recording is being used to collect health information, has the patient's attention been drawn to it and consent obtained?

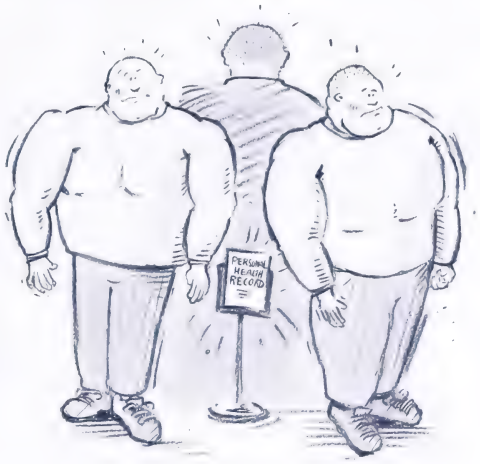
Protecting health information

6

General

Reasonable steps must be taken

Both the Act and the regulations require custodians to protect health information in their **custody** or under their **control.** Information that is to be stored or used outside of Alberta or disclosed to a person outside of Alberta must also be protected. This means that you must protect information, not only while it is in your hands, but when you put it in the hands of other people.



Custodians must take **reasonable steps** to maintain **administrative, technical** and **physical** safeguards to protect health information. Reasonable steps are those that a careful custodian would take.

These safeguards are meant to:

- protect both **the confidentiality of the information** and **the privacy of the individuals** who are the subjects of that information. For example, files should not be left unattended in an area to which the public has access. Nor should people picking up prescriptions be put in the awkward position of having to discuss their medications in front of others.

- protect against **reasonably anticipated** threats or hazards to the security or integrity of health information or the loss, unauthorized access, use, disclosure or modification of health information.

- ensure custodians and affiliates comply with the Act.

You Must do the Following:

Custodians have obligations.

- Custodians must identify and record their administrative, technical and physical safeguards for health information.
- Implement and periodically assess these health information security safeguards.
- Custodians must designate an affiliate who is responsible for the overall security and protection of health information in its possession or under its control.
- Custodians must enter into agreements with persons/groups to maintain the confidentiality and privacy of health information that is to be used or stored outside of the province.

- The regulations contain specific requirements regarding the contents of such an agreement so that the custodian can ensure the person receiving the health information properly protects it. This is necessary because the Act cannot be enforced against people located outside of the province. However, an agreement to protect health information given to them is a contract that can be enforced wherever they are located.

- An agreement is not necessary if the information is for continuing care and treatment. For example, if a patient moves to another province and asks for their health information to be transferred from one family physician to another, this may be done without an agreement.

- Custodians have to ensure that their affiliates know what the safeguards are and that they implement them. There is not much point in putting information in secure filing cabinets if affiliates constantly forget to lock them.
- Custodians must create sanctions for affiliates who breach or attempt to breach the safeguards created for health information. This is not meant to frighten people, but to impress upon affiliates the importance of preserving privacy and confidentiality. For example, employees may be required to sign an oath of confidentiality and if found in violation of the oath, they would be subject to disciplinary action or dismissal.

Physical Safeguards

- Keep white boards containing patient information away from public areas;
- Physically secure the areas in which health information is stored;
- Lock filing cabinets and unattended storage areas;
- Restrict access to storage areas to authorized personnel;
- Position computer terminals and fax machines so they cannot be seen or accessed by unauthorized users.

Technical safeguards

- Use screensavers and security screens so visitors cannot view terminals;
- Install virus scanners and firewalls;
- Use passwords to restrict computer access and change them frequently;
- Implement document-tracking systems so that you know when a document is removed, who has it and when it was returned;
- Ensure that any computer access leaves a footprint that can be followed to assure document integrity;
- Utilize encryption for storage and transmission;
- Encrypt sensitive e-mails.

Administrative Safeguards

- Train staff so they know what your policies are, the importance of following those policies and the results that might follow a breach (someone could be fined, disciplined or fired);
- Consider implementation of security checks to screen key employee positions;
- Have employees take an oath of confidentiality;
- Control the types of information that may be sent by fax or e-mail;
- Use preprogrammed addresses and phone numbers on faxes and e-mails that are regularly sent to certain places. This minimizes keystroke errors that might result in information being misdirected.
- Regularly confirm that such addresses and phone numbers have not changed;

Staff training enhances respect for patient information

EXAMPLE 7 **Security Measures**

Jill is a receptionist for a plastic surgeon who has numerous well-known people for patients. Jill has a budding relationship with a courier who comes daily into the office. As they chat the courier can see Jill's computer screen and over a period of time he acquires a list of patients that are treated by the surgeon. Sometimes he sees reports about treatment procedures that Jill is typing. He sells this information to a local reporter.

- Jill's computer screen should not be visible to visitors, nor should paper copies of sensitive information be left where others can see them.

Restrict Access by Staff

Remember that affiliates must only collect, use and disclose health information in accordance with their duties to the custodian. This concept is easier explained as the "need to know" principle. Custodians that employ many people will likely have numerous affiliates who have no need to have any access whatsoever to health information. Some affiliates will only need access to certain information.

Diagnostic, treatment and care information needs to be seen by very few people. For instance,

- Finance personnel handling purchase orders, accounts payable and receivable likely do not need to see such information.
- Doctors and nurses only need to see files of people with whom they are directly involved.

EXAMPLE 8 **Need to Know**

A patient with a history of drug abuse is admitted for an emergency appendectomy. A file is obtained from her doctor that contains a detailed history of her treatments over the past few years. During night shift a nurse, not involved in her care, browses through the file. Is this wrong?

- Access to such files should be restricted to persons treating the patient. Custodians should have a clear policy about this and staff should be trained accordingly.
- Custodians must create sanctions to encourage affiliates to follow the rules.

EXAMPLE 9 **Need to Know**

The Great Big Hospital has a unit that handles both orthopedic and neurology patients. The patient charts are hung on hooks in a central location so staff can access them without having to walk around the whole room. The charts have cover sheets that say "Confidential" in bold letters. Does this sufficiently protect the information?

- Convenience for staff must not take precedence over protection of privacy and confidentiality. Charts that are easily accessible to staff are also easily available to others, including visitors.
- Visitors should not be looking at anyone's chart, unless authorized. This arrangement makes it possible for them to view the chart of anyone in the room.

Disposal of Records

The safeguards that are created to protect health information must also include appropriate measures for the proper disposal of that information. Files should not be left behind when you move or tossed in a garbage bin accessible to anyone who wanders by. Computers need to have health information erased before being sold at auction. Appropriate methods for disposal of health information include burning or shredding.

Using health information

7

General

Use of information is restricted to prescribed purposes

Use as defined in the Act allows health information to be reproduced as it is being used, but not disclosed. Disclosure and use are two distinct things. Disclosure is discussed later in this guide. If one custodian provides health information to someone outside his or her organization, that is a disclosure of the information.

Custodians may only use health information in accordance with the Act. Custodians cannot use information for marketing purposes or for soliciting donations.

Affiliates may only use health information in accordance with their duties to the custodian. **Remember the "need to know" principle.** An affiliate who is responsible for a patient's care should not be giving information about that patient to another affiliate who is not involved in the care of that patient.

As with collection, there are limits to using individually identifying health information.

Remember the prime directive. You must use only the amount of health information **essential** to carry out the authorized purposes for which the information was provided and at the highest level of anonymity.

Use of Health Information

Use implies access and sharing of information among custodians and affiliates. The Act allows custodians to use *individually identifying health information* for a number of authorized purposes. It also means that affiliates of a custodian may access health information required to perform duties related to any of the authorized uses. Affiliates are allowed to share information without an individual's consent.

The two most common uses are:

- ▲ for providing a *health service;* or
- ▲ determining or verifying a person's eligibility to receive a *health service.*

Other uses include:

- ▲ conducting investigations;
- ▲ discipline proceedings, practice reviews and inspections;
- ▲ conducting research (research proposals must undergo an ethics review);
- ▲ educating health services providers; and
- ▲ managing internal operations.

7

The Minister and Department of Alberta Health and Wellness, RHAs and provincial health boards have four additional uses under HIA. Their uses are to:

- ▲ plan & allocate regional resources;
- ▲ manage the health system;
- ▲ conduct public health surveillance; and
- ▲ develop health policies and programs.

Remember, persons authorized to collect *personal health number (PHN),* other than custodians, may only use PHN for the purpose for which it was provided.

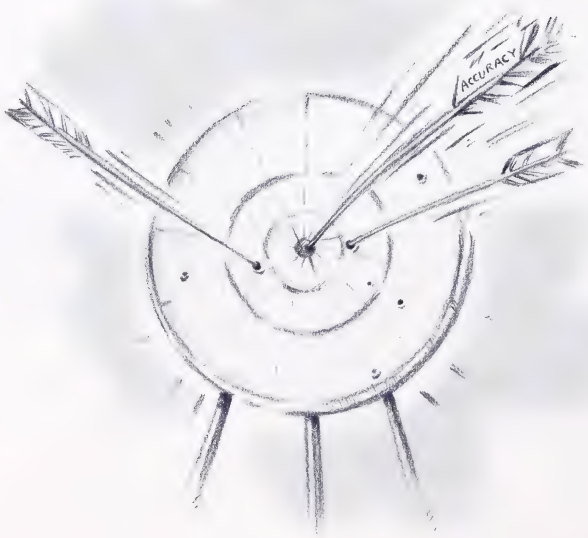
Accuracy and Completeness

Custodians must take **reasonable steps** to ensure that information is accurate and complete before they use it. There is no magic in this requirement. In most instances, **reasonable** would include assessing whether the information is:

- ▲ accurate;
- ▲ up to date;
- ▲ complete;
- ▲ relevant; and
- ▲ not misleading.

Reasonableness may depend upon the circumstances. You should be very careful if you collected the information from a third party or if the patient gives you the information directly, but seems confused or unsure. In an emergency situation you may not have time to check the information as carefully as you might like, but accuracy should be confirmed later.

What is reasonable may also depend on what the information is to be used for and its impact on the patient. Knowing someone's date of birth is obviously less important than knowing whether they have an allergy to an anaesthetic when they arrive unconscious and require emergency surgery. The Act does not change existing practice. Custodians should already be well aware what constitutes a **reasonable effort.**



Disclosing health information to third parties

8

General

Custodians may need to disclose

The word "disclose" is not defined in the Act. Remember, however, that the *use* of health information does not include the disclosure of health information. *Use* and disclosure are distinct concepts. Essentially, **disclosure** occurs when a custodian provides health information to another custodian within the **controlled arena** or to other entities outside the controlled arena.

Remember that the Act applies to the disclosure of all health information, whether it was collected before or after the Act came into force.

Disclosure must also be distinguished from **access.** A request for access to health information means a request by an individual who wants to see their own health records. The Act sets out a procedure for making such requests. Generally other parties have no right to make such a request. Access is discussed in a subsequent section of this guide.

There are three circumstances in which custodians may need to disclose health information. They may:

- have to disclose;
- want to disclose; or
- have been requested to disclose.

In some cases custodians have no choice but to disclose information because the law requires them to disclose it. In other cases they may need or want to disclose information, even against the patient's wishes or without the patient's permission, so they can protect others or do what is best for the patient.

Generally, an individual's consent is required before health information is disclosed. **Remember** that custodians are responsible for their affiliates. Custodians must only disclose information when the Act allows them to in the manner set out in the Act. Affiliates must only disclose information in accordance with their duties to their custodians. Affiliates should not be disclosing information to other parties without authorization.

Remember that there are three types of *health information.* This guide focuses on *diagnostic, treatment and care information,* as that is the type of health information most people are concerned about. However, the Act also governs the disclosure of health service provider information and registration information. **Remember** also that information can be identifying or non-identifying. It is the disclosure of individually identifying information that is restricted by the Act.

8

Consent to Disclosure

The **general rule** is that custodians may disclose *individually identifying health information* to the person who is **the subject of the information or to persons acting on that subject's behalf.** The latter group was discussed in the section on collecting health information and includes people listed as guardians (such as parents) and personal representatives. Disclosure to other parties is made only in the specific circumstances set out in the Act.

Particular care must be taken when dealing with **persons under the age of 18 years.** If a person under the age of 18 understands the nature of the rights and powers set up by the Act and the consequences of exercising those rights and powers, custodians must treat that person as they would treat any other competent person.

Obtaining consent avoids problems

If a person does not have the **mental capacity** to consent to disclosure, custodians may disclose information about that person without consent if it is in that person's best interest.

Of course, even where the Act does not specifically provide for disclosure to a third party, custodians may disclose information to a third party if the patient **consents** to that disclosure. The Act is very specific about the **form of the consent.**

The **consent** must be given **electronically or in writing.** A consent authorizing a custodian to disclose information must specify or contain:

- ▲ the information to be disclosed;
- ▲ the purpose for which the information is to be used;
- ▲ the identification of the person receiving the information;
- ▲ an acknowledgement that the person providing the consent is aware of the reasons why the information is needed and the risks and benefits of either consenting or refusing to consent;
- ▲ the effective date of the consent and the expiry date (if any); and
- ▲ a statement advising the person that they may revoke the consent at any time.

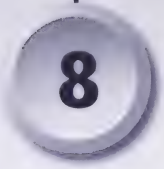
Any disclosure that takes place must be in accordance with the consent given.

If *individually identifying diagnostic, treatment and care information* is to be disclosed by electronic means, another separate consent is required. Electronic means is defined in the regulations and refers to electronic or digital information stored in a networked database by the custodian, which is accessible by other authorized users. It does not refer to the method of transmission, for example by fax, internet or intranet. This type of consent **is not required** if the disclosure by electronic means is for obtaining or processing payment for health services.

EXAMPLE 10 **Openness in collection procedures avoids disclosure problems later**

Judy is being discharged from a psychiatric facility back to her group home. The psychiatric facility wishes to inform the group home leader of Judy's release and discharge plan. Is this disclosure allowed by the Act?

- ▲ Custodians must inform individuals, at the time of collection, of the purposes for which the information is collected and should obtain consent upon admission for identified disclosure purposes.
- ▲ In this example, if it is determined that the group home leader is a continuing care provider, then disclosure would be allowed without consent.



Duties and Discretion of Custodians

Custodians **do not have to disclose** health information except in a very few cases. Most of the rules in the Act say that a custodian **may** disclose information in certain situations. This means the custodian has the **discretion** to refuse disclosure, even to a person asking for their own health information. Therefore, professional **codes of ethics still apply.** Even if the Act allows disclosure, you should not disclose information if your code of ethics forbids disclosure.

Custodians must be sure the disclosure is made to the **correct party.** The Act requires that custodians make a **reasonable effort** to ensure that disclosure is made to the person authorized and intended to receive the information. Safeguards were discussed earlier in this guide in the section on protecting health information. For example, if you are sending information to Dr. Anderson and there are four Dr. Andersons, you have a duty to ensure the correct doctor receives the information or that lab results are not faxed to the wrong person.

You rarely have to disclose

How Much to Disclose

Remember the prime directive. Custodians must only disclose information that is **essential** to allow the custodian or recipient to carry out the purpose for which the information is being disclosed. When a patient consents to provide health information in support of a back claim to WCB, it would be inappropriate to send the WCB specialist the patient's complete medical chart going back twenty years, especially if the information is not all related to the back problem.

Disclose only essential information

Any **expressed wishes by** the person must be respected. Custodians must consider those wishes, and any other relevant factors, when they decide how much health information to disclose.

You Have to Disclose Certain Information

The Act itself does not require disclosure, but it allows disclosure so that custodians can comply with other legislation or court orders that do require disclosure. Two examples are:

- The Public Health Act requires disclosure about people who have or may have a notifiable infectious disease.
- The Cancer Programs Act requires disclosure of "reportable cancers".

In court cases involving insurance claims or personal injury claims, the parties to the action may have to disclose medical information. In most cases this is done by consent. However, the court will issue an order or subpoena to compel disclosure if that is necessary. The Act allows custodians to comply with such orders.

Remember that you still need to be careful about what information you disclose. The duty to disclose only the information that is **essential** for the purpose for which it is being disclosed may still govern where a court order is not very specific about precisely what is to be disclosed.

You Want to or are Asked to Disclose Without Consent

The Act recognizes the fact that disclosure without consent **may** be necessary in a number of cases. This guide covers only disclosures that are likely to occur regularly. Usually these are cases that contribute to the efficient running of the health care system or cases where other interests that will be protected by disclosure are more important than the patient's privacy interest.

Parents don't have an automatic right to children's records

It is important to note that the Act makes no specific provision for the disclosure of information to the parents of children or to responding to media requests for information. Disclosure is only allowed, even to parents, if one of the following grounds for disclosure exists or if the child is too young to understand the nature of the rights and powers created by the Act and the consequences of exercising those rights and powers.

Disclosure to other Custodians

Diagnostic, treatment and care information is regularly shared between custodians. The health care system would grind to a halt if consent were required for each disclosure. Doctors consult with each other, specimens are sent to labs, patients are referred for physiotherapy and prescriptions are filled. Patients know this and do not expect to be asked for permission each time something is done for them. A custodian may disclose information, without consent, to another custodian for the purpose of providing a *health service* to a patient.

Disclosure to Continuing Care Providers

The Act allows disclosure of health information to persons responsible for providing continuing treatment and care to an individual. However, it does not define "continuing care provider" because the range of people who provide such services is very broad. Terminally ill or ageing patients are often cared for at home by **family** or by others who are not *custodians*. **Parents** care for younger children. These people often have to give medicine to the patient and often are the source for collecting information about the patient's condition. Custodians may disclose information without consent to such people so that they may provide care to the patient. One example would be the provision of a prescription to a third party who is caring for the individual.

EXAMPLE 11 — Request by Caregivers

Thomas is a 78 year old man with severe emphysema. He is to be discharged after a stay in hospital. His wife, Laura, plans to look after him in their home. She has asked their family physician for information on Thomas' day to day needs. Can the doctor provide information to Laura?

- Laura is Thomas' caregiver, so her request can be answered and the Act provides for disclosure of such information.
- Unless the doctor is aware that Thomas does not want the information disclosed, there is no reason to withhold information from Laura.

EXAMPLE 12 **Disclosure of a child's counselling notes to parents**

A 12-year-old boy is receiving counselling for behavioural problems that include some violent episodes. The episodes may be related to abuse. He only agreed to go to counselling if the sessions were kept confidential. He lives with his mother, who has sole custody, and two younger siblings. Although his father has visitation rights every second weekend, he exercises it infrequently. The mother wants the counsellor to disclose information about the boy's progress and statements made during the counselling sessions. Can the counsellor disclose information to the mother?

- Parents do not have an automatic right to information about their child. If the boy is competent to exercise his rights under the Act, he must be allowed to exercise them.
- It is possible that disclosure could be made to the mother as a continuing caregiver if that would help her care for her son.
- Remember that disclosure may be made to any person if the subject of the information lacks the mental capacity to consent and disclosure would be in their best interest. It is arguable whether a 12 year old lacks the capacity to consent.
- If the boy could be a danger to his younger siblings, disclosure should be made to the mother for the purpose of protecting the siblings (this ground for disclosure is discussed further on in this section).
- Disclosure in general terms is allowed to family members (and is discussed further on in this section), but only if the patient has not expressly requested that it not be made. As the boy only went to counselling on the basis that the sessions be confidential, even limited disclosure to the father would not be allowed.
- Suspected abuse must be reported as per Section 3 of the Child Welfare Act.

Disclosure Due to Family/Close Personal Relationship

Disclosure can be made in such cases as long as the patient has not expressly requested that disclosure not be made.

The information that may be disclosed must be in general terms and concern the **presence, location, condition, diagnosis, prognosis and progress of the patient on the day on which the information is disclosed.**

Disclosure can also be made so that family members or a person who has a close personal relationship can be contacted to advise that the patient is injured, ill or deceased.

Whether a person who is not a family member has a close personal relationship to the patient is a judgement call. Disclosure to friends is generally not made, but if two people live together or a patient has no family, disclosure to a close friend may be appropriate.

The Act also allows a restricted disclosure to a deceased individual's descendant if the disclosure is necessary for providing a health service to the descendant.

8

Disclosure in Judicial or Quasi-Judicial Proceedings

Sometimes custodians are parties (e.g. plaintiffs or defendants) in court or administrative proceedings. Custodians may disclose health information for the purpose of bringing or defending such actions.

Sometimes custodians are not parties to the action at all, but have information in their possession that is needed by the parties or the court to help decide the case. Often the parties to the case exchange information willingly, but sometimes they do not and the court will issue an order or subpoena to require the disclosure of relevant health information.

Custodians must comply with such orders, but they should be careful to disclose only the information they are required to disclose. Usually the order will be quite specific, but remember the **prime directive.** If you are not clearly required to disclose certain information you should not disclose it.

Disclosure to Prevent Fraud, Abuse of the System or Offences

Disclosure is allowed to prevent fraud and abuse

Custodians who have a **reasonable expectation** that disclosure will detect or prevent fraud, limit abuse of health services or prevent an offence may disclose information **to another custodian.**

This part of the Act allows custodians to share information for purposes other than providing health services. This section does not allow you to disclose information **to the police,** as they are not custodians.

Example 13 — Disclosure to prevent abuse

Susan is a pharmacist who works at a number of stores. A customer arrives to pick up a prescription for a medicine that contains codeine. Susan recognizes the customer from her shifts at the other stores and notes that the prescription is suspicious. Susan has good reason to suspect that the customer is forging prescriptions for the purpose of obtaining the narcotic codeine. This is an offence under the Controlled Drugs and Substances Act. What can Susan do in this situation?

▲ This section of the Act allows Susan to disclose the fact, to other custodians, that other prescriptions have been issued. She would also follow the procedures for the Triplicate prescription program and she may notify other pharmacists about the suspected abuse. Susan may also volunteer to coordinate the dissemination of this information to regional pharmacists.

EXAMPLE 14 **Disclosure to prevent fraud**

John's ten-year-old niece is visiting from California for the weekend. She becomes ill and John takes her to a medicentre, as he suspects she has an ear infection. As she has no health insurance, John pretends she is his own daughter and gives his daughter's health care number to the nurse. The nurse registers the patient including the name of their family physician. Unknown to John, is the fact that the nurse has seen John's daughter and is certain that the niece is not the daughter or a sibling. What can the nurse do in this situation of suspected fraud?

▲ The nurse, as an affiliate at the medicentre, may phone the family physician and disclose information to him to try and ascertain if the patient is John's daughter. The physician can review John's daughter's health record for the purpose of preventing fraud or abuse of the health system. The doctor can also provide information back to the nurse to help her distinguish the daughter from the niece.

Disclosure to Police

Disclosure to police is limited

Disclosure **may** be made to the police for the purpose of **investigating an offence** involving a **life-threatening personal injury** to a patient. This may only be done if it is not against the express wishes of that person. Note that disclosure may also be made to the police for the purpose of avoiding an imminent danger to the health or safety of any person.

EXAMPLE 15 **Disclosure to police**

Carol is brought to the hospital by ambulance. She is unconscious, her face is badly bruised and she may have a broken neck. The police were in attendance at the home due to a 911 call and now arrive at the hospital asking the doctor's opinion about how the injuries may have occurred. They know the attendants found Carol at the bottom of a long flight of stairs and that her husband was present and appeared to be extremely angry and agitated. The husband claimed that Carol had fallen down the stairs, but the police suspect she was beaten and then pushed down the stairs. May the doctor give his opinion to the police?

▲ The doctor may disclose the nature of Carol's injuries if the injuries are determined as life-threatening and Carol has not expressly requested that disclosure not be made.

8

Disclosure to Preserve Health/Safety

A custodian may disclose information **to any person** if he or she believes, on **reasonable grounds,** that the disclosure will avert or minimize an **imminent danger** to the **health or safety** of **any** person.

This is a difficult section due to the presence of the word "imminent". It is not a defined term in the Act. It can mean that a danger is hanging over a person's head **and** is likely to happen very soon.

Disclosure is allowed to preserve health and safety

EXAMPLE 16 — Disclosure to lessen a serious and imminent threat

A doctor has a patient who is employed as a bus driver. The patient has been experiencing bouts of forgetfulness and confusion. The doctor feels the patient may be experiencing early symptoms of Alzheimer's Disease. He feels the patient should not be driving, but the patient refuses to stop. What can the doctor do?

▲ The doctor must make a judgment call as to whether the danger to passengers, other drivers, pedestrians and even the patient is imminent. If it is, the doctor may inform any person if the custodian believes that will avert or minimize the danger. This could include disclosure to the patient's employer, the police and the motor vehicle licensing branch.

EXAMPLE 17 — Disclosure to avert or minimize imminent danger to the health or safety of any person

The police are investigating a series of sexual offences believed to have been committed by a serial rapist. The rapist has expressed his desire to rape a particular individual. The police have written to every doctor in the city disclosing information about injuries the man likely received during a recent attack and asking the doctors to advise the police if they have treated anyone with such injuries. Can a doctor who suspects that one of his patients is the offender disclose information to the police?

▲ Does the custodian have reasonable grounds to believe the disclosure will avert or minimize an imminent threat to health or safety? If the injury is so distinct that it is unlikely that anyone but the rapist would have sustained the injury, disclosure may be justified.

Notice to the Recipient of the Disclosure

If a custodian discloses *individually identifying diagnostic treatment and care information,* the custodian must inform the recipient **in writing** of the purpose of the disclosure and the authority under which the disclosure is made.

This does not have to be done if the disclosure is to another custodian for the purpose of providing a health service.

However, in many of the preceding examples notice would have to be given. If information were disclosed to the employer in the bus driver example, a notice would have to be given as well, stating that the information was being disclosed for the purpose of preserving public safety and that the disclosure was authorized by the Health Information Act.

Notation of Disclosures

If a custodian discloses a *record* that contains *individually identifying diagnostic, treatment* and care information, outside of the controlled arena, the custodian must log that disclosure. The log must contain:

- the name of the person to whom the information was disclosed;
- the date and purpose of the disclosure; and
- a description of the information disclosed.

The notation must be retained for ten years and the person who is the subject of the information may seek access to and request a copy of the information.

This section simply allows a patient to see which, if any, records have been disclosed and, if they have been disclosed, to whom they were disclosed. Remember that *record* has a specific meaning under the Act.

Disclosure for Research Purposes

The Act contains provisions that expressly govern the disclosure of *health information* for research purposes. These provisions require the submission of a proposal to an ethics committee. If the committee approves the proposal, the researcher may ask custodians to disclose information, but **the custodian does not have to disclose the information.** If the custodian chooses to disclose the information, an agreement outlining the ethic committee's conditions, as well as terms protecting the information and the identities of the persons involved in the research, must be signed.

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Right of access to personal health information

General

Right to access is not unrestricted

A person has a right of access to any ***record*** that contains *health information* **about that person** that is in a custodian's **custody or control.** If a record is not in the custodian's hands, but the custodian has the power to retrieve it, then the record is in the custodian's control. You may have sent a file to storage, but if you can retrieve it, the record is still in your control.

People do not have an unrestricted right of access, as custodians are allowed to refuse access in certain situations. The Act gives people a right to access information, not the right to have the original documents. **Partial access** may be available if a custodian has grounds for not disclosing some information. In such cases, the information that must not be disclosed should be severed from the record and the remainder should be disclosed.

Custodians **may** charge specified fees for giving access (see the section on fees). The right of access is generally subject to the payment of the fee.

Remember that you have a duty to make a reasonable effort to ensure that the information is disclosed to the person intended and authorized to receive it. If you are a custodian that does not know the applicant personally, you should get proper identification before releasing the information.

What is a Record?

The Act is very specific about what a *record* is. Obvious *records* are such things as notes, letters, documents and x-rays. Basically, any *health information* that is **written, photographed, recorded or stored in any manner** is a *record.* Even if information is only stored on your computer, it is contained in a *record.* **Remember,** there are three types of *health information.*

If a hard copy of a record does not exist, but can be created from information that is in electronic form by using your normal computer hardware and software and technical expertise, then you must create a hard copy of the record if a person wants one. You do not have to do this if creating the record would unreasonably interfere with your operations.

Requests for Access

The Act doesn't require that you change your current practices for release of information. However, your procedures must be in compliance with the Health Information Act.

A person who makes a request for access under HIA can ask for a **copy of the record** or to **examine the record.** A custodian may require the person to make the request in writing, and may request **further information** from that person to clarify the scope of the request. The custodian must make every **reasonable effort to respond within 30 days** of receiving the request. People do not have to explain why they want their personal health information.

Requests can be abandoned. If a custodian requests that a person pay a fee or supply further information and the person doesn't respond, the custodian may notify the person in writing that the request has been abandoned. The written notice must also advise the person that he/she can ask the Commissioner for a review of the custodian's decision.

Custodians must assist people seeking access

In some cases a request may be for access to a record that contains non-personal health related information to which the Freedom of Information and Protection of Privacy Act (FOIP) applies. If you are a custodian that is also a public body under FOIP, e.g. a public hospital, you must treat that part of the request as a request under FOIP and the provisions of FOIP apply to that part of the request.

Responding to Requests – What You Must Do

Custodians must make every **reasonable effort** to **assist applicants** and to respond **openly, accurately** and **completely.** You must, where it is **reasonably practicable,** explain any term, code or abbreviation used in the record if the applicant requests it.

Remember that, where practical, you must **create a record** if the person wants one.

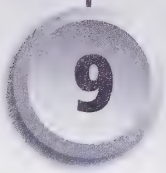
You must make every **reasonable effort to respond within 30 days** of receiving the request. It is possible to **extend this period** for an additional 30 days, without Commissioner approval, for the following reasons:

- ▲ if the request for access is not detailed enough for you to identify the record;
- ▲ if a large number of records are involved; or
- ▲ if you must consult with another custodian to determine whether access should be given.

With any time extension you must:

- ▲ give the applicant the reason for the extension;
- ▲ tell them when a response can be expected; and
- ▲ advise them that they may make a complaint to the Commissioner.

If you do not respond within the required time, you are deemed to have refused access to the applicant.



You must tell the applicant:

- whether you will give access to all or part of the record; and
- where, when and how access will be given, if it is to be given.

If access to all or part of the record is refused you must tell the applicant:

- the reason(s) for the refusal and the provision(s) of the Act you relied on for refusing to give access;

- the name, title, business address and phone number of an affiliate who can answer questions about the refusal; and

- that the applicant may ask the Commissioner to review the decision to refuse access.

You Must Refuse Access

A custodian **must** refuse access in a number of situations. The ones most likely to arise are:

- where the request is for access to information about a person **other than the applicant** or a person acting on behalf of that individual (unless the information was provided by the applicant in the first place in the context of a health service being provided to the applicant);

- where disclosure is prohibited by another law of Alberta (e.g. Freedom of Information & Protection of Privacy Act, Human Tissue Gift Act); or

- where the information sets out procedures or contains results of an investigation, discipline proceeding, practice review or an inspection relating to a health services provider.

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Sever information that should not be disclosed

You May Refuse Access

A custodian **may** refuse to allow access in a number of situations. The ones most likely to arise are where the disclosure **could reasonably:**

- be expected to result in **immediate and grave harm to the applicant's mental or physical health or safety;**
- be expected to **threaten the mental or physical health or safety of another individual;**
- be expected to **pose a threat to public safety;**
- lead to the identification of a person who provided health information to the custodian explicitly or implicitly **in confidence** and in circumstances in which it was appropriate that the person's name be kept **confidential.**

Remember that if you can **sever** information to allow **partial access** you must do so.

EXAMPLE 18 — Discretionary Refusal of Access Due to a Threat to the Safety of Another Individual

Sue's husband has physically abused her on many occasions. After the last episode the husband was convicted of assault and ordered to take a regional health authority sponsored anger management program and stay away from Sue. Sue has since left her husband and now lives alone, but her husband suspects she is "having an affair". Sue tells a friend that her husband is stalking her and on a number of recent occasions the friend has observed the husband following Sue. Sue and her friend report this to the husband's counsellor who makes a note of it on the husband's case file as it indicates the mental health state of the husband. The counsellor raises the issue at the husband's next counselling session. The husband demands to know who told the counsellor he has been following his wife. The husband demands access to the counsellor's notes about himself.
Can the counsellor refuse to provide access to his notes?

- It is clear the husband is an abusive individual and could pose a danger to Sue and her friend. The counsellor could refuse to give access to his notes on that basis or on the basis that they gave the information to the counsellor on the implied condition that it would be kept confidential.

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EXAMPLE 19 **Refusal to Access based on information likely to prejudice health & safety**

Rita is an elderly patient with bipolar disorder and a number of other physical ailments that require her to be in regular contact with her doctor and frequent admissions to the hospital. Rita has never accepted the diagnosis of bipolar disorder and becomes very agitated and distressed when it is discussed. She is unreliable about taking her medication and needs monitoring. Rita has asked the hospital for access to her records. Should the hospital allow Rita access to her medical records?

- The hospital has reservations about releasing them because they make reference to her bipolar disorder and contain family and friends names who have participated in case conferences. The hospital has discussed the matter with Rita's doctor. The doctor believes disclosure may compromise Rita's health, mentally and possibly physically as her compliance with treatment has been sporadic. There also exists the possibility that if Rita were to find out the names of individuals who provided information about her during case conferences, that she could pose a physical threat to them based on her past behavioural patterns when she is ill.
- Under these circumstances access should probably not be granted. However, the hospital must decide if access could reasonably be expected to result in immediate and grave harm. The mental distress would be immediate, but is it grave? It is arguable whether the mental problems that could result from her withdrawal of medications could be classified as either an immediate or grave danger to herself or others.
- The hospital should consider whether it is possible to sever references to Rita's treatment for bipolar disorder, including names and then disclose the rest of her records.

Fees

The Act allows custodians to charge fees for providing access to records. The services for which fees **may** be charged and the amount that may be charged are specified in the regulations.

Custodians must **give an estimate** of the total fees that will be charged before providing the services. The regulations specify what must be set out in an estimate.

Custodians have the **discretion to excuse an applicant from paying all or part of the fees.** If an applicant asks to be excused from paying all or part of a fee and the custodian refuses, the custodian must tell the applicant that they can have that decision reviewed by the Commissioner.

Correcting or amending health information

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General

Patients can ask for personal health information to be corrected

A person who believes that his or her health information contains an **error or omission** may request that the custodian who has **custody** or **control** of that information correct or amend it. The request must be **in writing.**

Remember that custodians have a **duty** to ensure that personal health information is **accurate** and **complete.**

As with requests for access, the custodian has **30 days** to make the correction or amendment, although **that period may be extended.**

If the custodian agrees to make the change or amendment, the custodian must give the applicant **written notice** that the correction or amendment has been made and **notify** any person to whom the information has been disclosed (in the last year before the correction or amendment was requested) that the change has been made. This **notice does not have to be given** if the custodian believes that not giving notice will not harm the applicant and the applicant agrees that they will not be harmed.

A custodian may refuse to make a correction or amendment of a **professional opinion or observation** made by a health services provider about the applicant or of a record that was not originally created by the custodian.

Where a patient disagrees with a diagnosis that later proves to have been incorrect, you should attach a statement correcting the earlier diagnosis and notify anybody to whom the information was previously disclosed. Removing all reference to the earlier diagnosis could make the record incomplete, as there would be nothing to explain any treatment that was given on the basis of that diagnosis.

If the custodian fails to respond to a request it is **deemed to have refused** to make the correction or amendment.

If the custodian refuses to make the correction or amendment, the custodian must, within the thirty-day period (or during the extended period), tell the applicant of the refusal to correct or amend and **give the reasons for refusing.**

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A custodian who refuses to make a requested change or amendment must also **advise the applicant** that he or she may do one of two things:

- ask the Commissioner to **review** the custodian's decision; or
- submit a **statement of disagreement** setting out the requested change or amendment and their reasons for disagreeing with the custodian's decision not to make the change or amendment.

If a statement for amendment or change is submitted the custodian **must** attach it to the record (if reasonably practicable) and send the statement to any person to whom the custodian has disclosed the record in the year preceding the request for the change or amendment.

EXAMPLE 20 **Correcting a Disputed Diagnosis**

A patient presents with an unexplained illness at a hospital. A diagnosis of acute anxiety attack is made, and a course of psychiatric counselling is recommended. The patient consults an independent psychiatrist who renders a different diagnosis. The patient requests the hospital remove the reference to the diagnosis from the hospital records. The hospital refuses to do so because it represents a clinical opinion and the subsequent course of treatment provided to the patient based on that clinical opinion. What options does the patient have?

- The custodian must advise the patient that they can ask the Commissioner to review the custodian's decision; or
- It would be appropriate to ask the patient if he or she would like a statement of disagreement attached to the chart. The hospital could offer to help prepare a statement that includes the independent psychiatrist's diagnosis.

Reviews by the Commissioner

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General

The Commissioner is the **Information and Privacy Commissioner** appointed under the Freedom of Information and Protection of Privacy Act.

The Commissioner is independent and impartial

The Commissioner is **independent from government** and has the power to review the conduct of custodians. In particular the Commissioner may review:

- any decision, act or failure to act by a custodian who has been asked to give access to or correct or amend a record by the person who is the subject of the record;
- a claim by an individual that his or her health information has been improperly collected, used or disclosed; and
- a decision by one custodian to refuse to disclose information to another custodian.

A person must give a **written request** to the Commissioner in order to ask **for a review.** The Commissioner may authorize a mediator to investigate and attempt to settle a dispute, but if it cannot be settled the Commissioner must (generally) conduct an inquiry and make an order disposing of the issues.

The Commissioner **may also investigate** and attempt to resolve **complaints** that:

- a duty to assist a person who has applied for access has not been performed;
- there has been an improper extension of time for responding to a request;
- a fee charged under the Act is inappropriate;
- a correction or amendment of health information has been improperly refused; or
- a custodian has improperly collected, used, disclosed or created health information.

Whistleblower Protection

An affiliate, acting in good faith, may tell the Commissioner about any health information that the affiliate believes is being collected, used or disclosed by a custodian in contravention of the Act.

The Commissioner **must investigate** and review such allegations and may not disclose the identity of the affiliate without his or her consent.

No custodian or person acting on the custodian's behalf may do anything such as fire or discipline an affiliate for disclosing information to the Commissioner.

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HIA at a Glance

This section is intended to provide a quick overview

The Act sets out the rules respecting the collection, use and disclosure of health information by "custodians". Certain health service providers in Alberta are custodians under the Act. Many health service providers are probably already following similar rules according to their professional standards.

General Rules

- You must safeguard the health information you hold.
- Provide anonymous information whenever possible.
- Only disclose what is needed to do the job, no more.
- Only provide information to those with a need to know.

Collection of Health Information

- Collect only what you need to provide care.
- Collect directly from the patient whenever possible.

Patient Access to Their Own Health Information

- Patients have a legal right to see or obtain copies of their personal health information.
- You have a duty to help patients with their requests. You must explain abbreviations and terms to your patients.
- You have to respond to access requests within 30 days.
- You can charge a fee for access, according to the schedule that is set out in the regulations.
- In some circumstances, you can refuse access, for example when access may cause harm.
- If a patient disagrees with your decision, an appeal can be made to the Information and Privacy Commissioner.

Corrections to Health Information

- Patients have a right to ask for a correction to their information.
- You can refuse to correct, for example where the correction involves your professional opinion.
- Patients can ask the Information and Privacy Commissioner to review your decision or submit a statement of disagreement.

Use of Health Information

- You can use health information without consent for the following purposes:
- Providing health services,
- Determining eligibility for health services,
- Conducting formal investigations, disciplinary proceedings, practice reviews and inspections,
- Conducting authorized research,
- Providing health service provider education,
- Complying with another piece of legislation, and
- Managing internal operations such as planning and allocating resources, quality improvement, program evaluation and obtaining payment for services.

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of the *Health Information Act.*

Disclosure of Health Information

- You can disclose a patient's health information with consent.
- Make sure you are disclosing to the correct patient* or custodian.
- Be reasonably sure the information is accurate.
- Keep a log of the disclosures you make. A simple notation in the chart is acceptable.
- You may disclose without consent (though you are not required to disclose) to the following people:
  - Continuing care & treatment providers,
  - Health professional bodies, auditors and quality assurance committees,
  - Researchers, subject to an ethics review,
  - Entities authorized to obtain information or disclosures required by other legislation, e.g., courts and subpoenas,
  - Family members in certain circumstances,
  - Individuals or authorized representatives of individuals,
  - Persons acting in the best interests of an incompetent individual,
  - Police, when investigating a life threatening injury to the individual,
  - Any person, to avert or minimize an imminent danger,
  - Another custodian, to prevent fraud or detect abuse of health services, and
  - Another custodian or successor of a custodian.

- (Note that the HIA itself does not require you to disclose, although in some of these cases, other legislation does make disclosure mandatory)

There are also specific exceptions for disclosure without consent that apply to registration information and health service provider information.

You will continue to handle a lot of requests as you have done in the past, using common sense and professional standards.

* The word 'patient' is used to include reference to others that are authorized to exercise rights on behalf of a patient. Examples include a parent on behalf of a child, a guardian or trustee on behalf of a mentally incompetent patient and a personal representative on behalf of a deceased patient.

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Conclusion

The Health Information Act is a new piece in an existing framework of legal and ethical standards that are utilized in the day to day management of those needing care and treatment. Understanding the Act will assist in making sense of the larger framework. Common sense is perhaps the best entry point to understanding the Act. If an interpretation of the Act seems to lead to a strange result, it may not be correct.

If guidance is needed on specific issues, custodians can call the Office of the Information and Privacy Commissioner at: 780-422-6860.

Comments on the guide are welcomed. Please direct them to:

The Office of the Information and Privacy Commissioner
#410, 9925 – 109 St.
Edmonton, AB
T5K 2J8

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Glossary

affiliate, in relation to a custodian, includes

(i) an individual employed by the custodian,

(ii) a person who performs a service for the custodian as an appointee, volunteer or student or under a contract or agency relationship with the custodian, and

(iii) a health services provider who has the right to admit and treat patients at a hospital as defined in the Hospitals Act, but does not include

(iv) an operator as defined in the Ambulance Services Act, or

(v) an agent as defined in the Health Insurance Premiums Act;

collect means to gather, acquire, receive or obtain health information;

Commissioner means the Information and Privacy Commissioner appointed under Part 3 of the Freedom of Information and Protection of Privacy Act;

custodian means

(i) the board of an approved hospital as defined in the Hospitals Act other than an approved hospital that is

(A) owned and operated by a regional health authority established under the Regional Health Authorities Act, or

(B) established and operated by the Alberta Cancer Board continued under the Cancer Programs Act;

(ii) the operator of a nursing home as defined in the Nursing Homes Act other than a nursing home that is owned and operated by a regional health authority established under the Regional Health Authorities Act;

(iii) a provincial health board established pursuant to regulations made under section 17 of the Regional Health Authorities Act;

(iv) a regional health authority established under the Regional Health Authorities Act;

(v) a community health council as defined in the Regional Health Authorities Act;

(vi) a subsidiary health corporation as defined in the Regional Health Authorities Act;

(vii) the Alberta Cancer Board continued under the Cancer Programs Act;

(viii) a board, council, committee, commission, panel or agency that is created by a custodian referred to in subclauses (i) to (vii), if all or a majority of its members are appointed by, or on behalf of, that custodian, but does not include a committee that has as its primary purpose the carrying out of quality assurance activities within the meaning of section 9 of the Alberta Evidence Act;

(ix) a health services provider who is paid under the Alberta Health Care Insurance Plan to provide health services;

(x) a licensed pharmacy as defined in the Pharmaceutical Profession Act;

(xi) a pharmacist as defined in the Pharmaceutical Profession Act;

(xii) the Department;

(xiii) the Minister;

(xiv) an individual or board, council, committee, commission, panel, agency, or corporation designated in the regulations as a custodian;

but does not include

(xv) the Alberta Alcohol and Drug Abuse Commission continued under the Alcohol and Drug Abuse Act, or

(xvi) a Community Board or a Facility Board, as those terms are defined in the Persons with Developmental Disabilities Community Governance Act;

diagnostic, treatment and care information means information about any of the following:

(i) the physical and mental health of an individual;

(ii) a health service provided to an individual;

(iii) the donation by an individual of a body part or bodily substance, including information derived from the testing or examination of a body part or bodily substance;

(iv) a drug as defined in the Pharmaceutical Profession Act provided to an individual;

(v) a health care aid, device, product, equipment or other item provided to an individual pursuant to a prescription or other authorization;

(vi) the amount of any benefit paid or payable under the Alberta Health Care Insurance Act or any other amount paid or payable in respect of a health service provided to an individual,

and includes any other information about an individual that is collected when a health service is provided to the individual but does not include information that is not written, photographed, recorded or stored in some manner in a record;

health information means any or all of the following:

(i) diagnostic, treatment and care information;

(ii) health services provider information;

(ii) registration information;

health service means a service that is provided to an individual

(i) for any of the following purposes and is directly or indirectly and fully or partially paid for by the Department (of Health and Wellness):

(A) protecting, promoting or maintaining physical and mental health;

(B) preventing illness;

(C) diagnosing and treating illness;

(D) rehabilitation;

(E) caring for the health needs of the ill, disabled injured or dying;

or

(ii) by a pharmacist engaging in the practice of pharmacy as defined in the Pharmaceutical Profession Act regardless of how the service is paid for,

but does not include a service that is provided to an individual

(iii) by an ambulance attendant as defined in the Ambulance Services Act,

(iv) by the Alberta Alcohol and Drug Abuse Commission continued under the Alcohol and Drug Abuse Act, or

(v) by a Community Board or a Facility Board, as those terms are defined in the Persons with Developmental Disabilities Community Governance Act;

health services provider means an individual who provides health services;

health services provider information means the following information relating to a health services provider:

(i) name;

(ii) business and home mailing addresses and electronic addresses;

(iii) business and home telephone numbers and facsimile numbers;

(iv) gender;

(v) date of birth;

(vi) unique identification number that

(A) is assigned to the health services provider by a custodian for the purpose of the operations of the custodian, and

(B) uniquely identifies the health services provider in relation to that custodian;

(vii) type of health services provider and licence number , if a licence has been issued to the health services provider;

(viii) date on which the health services provider became authorized to provide health services and the date, if any, on which the health services provider ceased to be authorized to provide health services;

(ix) education completed, including entry level competencies attained in a basic education program and post-secondary educational degrees, diplomas or certificates completed;

(x) continued competencies, skills and accreditations, including any specialty or advanced training acquired after completion of the education referred to in subclause (ix), and the dates they were acquired;

(xi) restrictions that apply to the health services providers right to provide health services

in Alberta;

(xii) decisions of a health professional body, or any other body at an appeal of a decision of a health professional body, pursuant to which the health professionals right to provide health services in Alberta is suspended or cancelled or made subject to conditions, or a reprimand or fine is issued;

(xiii) business arrangements relating to the payment of the health services providers ac counts;

(xiv) profession;

(xv) job classification;

(xvi) employment status;

(xvii) number of years the health services provider has practiced the profession;

(xviii)employer;

(xix) municipality in which the health services providers practice is located but does not include information that is not written, photographed, recorded or stored in some manner in a record;

individually identifying, when used to describe health information, means that the identity of the individual who is the subject of the information can be readily ascertained from the information;

non-identifying, when used to describe health information, means that the identity of the individual who is the subject of the information cannot be readily ascertained from the information;

personal health number means the number assigned to an individual by the Department to uniquely identify the individual;

record means a record of health information in any form and includes notes, images, audio-visual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records;

registration information means information relating to an individual that falls within the following general categories and is more specifically described in the regulations:

(i) demographic information, including the individuals personal health number;

(ii) location information;

(iii) telecommunications information;

(iv) residency information;

(v) health service eligibility information;

(vi) billing information; but does not include information that is not written, photographed, recorded or stored in some manner in a record;

use means to apply health information for a purpose and includes reproducing information, but does not include disclosing information.

NOTES

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